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MS APPEAL BRIEF - PATENTS
Docket No.: 3626-0240P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Watson WU

Application No.: 10/034,390 Confirmation No.: 8731

Filed: January 3, 2002 Art Unit: 2178

For: METHOD AND SYSTEM FOR PRODUCING A BOOK FROM A VIDEO SOURCE Examiner: C. B. Paula

APPEAL BRIEF TRANSMITTAL FORM

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is an Appeal Brief on behalf of the Appellants in connection with the above-identified application.

☐ The enclosed document is being transmitted via the Certificate of Mailing provisions of 37 C.F.R. § 1.8.

A Notice of Appeal was filed on **August 22, 2005**.

☒ Applicant claims small entity status in accordance with 37 C.F.R. § 1.27.

The fee has been calculated as shown below:

☐ Extension of time fee pursuant to 37 C.F.R. §§ 1.17 and 1.136(a) - $.

☒ Fee for filing an Appeal Brief - $250.00 (small entity).

☒ Check(s) in the amount of $250.00 is(are) attached.

☐ Please charge Deposit Account No. 02-2448 in the amount of $none. A triplicate copy of this sheet is attached.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: October 24, 2005

Respectfully submitted,

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TABLE OF CONTENTS

I. REAL PARTY IN INTEREST 2

II. RELATED APPEALS AND INTERFERENCES 2

III. STATUS OF THE CLAIMS 2

IV. STATUS OF AMENDMENTS 2

V. SUMMARY OF THE INVENTION 2

VI. GROUNDS OF REJECTION 4

VII. APPELLANT' ARGUMENTS 4

1. Claims 1-30 4

VII. CLAIMS APPEALED APPENDIX A-1

IX. EVIDENCE APPENDIX B-1

X. RELATED PROCEEDINGS APPENDIX C-1

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BRIEF ON BEHALF OF APPELLANT

APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

October 24, 2005 (Monday)

Sir:

This Appeal Brief is respectfully submitted on behalf of the Appellant in connection with the above-identified application.

This is an Appeal from the Office Action of April 22, 2005 finally rejecting claims 1-30 in the above-identified application. The appealed claims are 1-30, and are set forth in the attached Appendix.

I. REAL PARTY IN INTEREST

The instant application is assigned to NewSoft Technology Corporation, as recorded on January 3, 2002, at Reel/Frame 012427/0161. No further assignments of this application have been made.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences for the instant application.

III. STATUS OF THE CLAIMS

Claims 1-30 are finally rejected and are set forth in the attached Appendix.

IV. STATUS OF AMENDMENTS

A Request for Consideration has been filed on January 21, 2005. However, no amendments to claims have been made.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Claims 1-10

Independent claim 1 and its dependent claims relate to a book producing system for producing a book, which consists of a text part and an illustration part, comprising a video-receiving module (101 in FIG. 1) for receiving video source data (40 in FIGs. 1 and 3) as discussed on page 8, lines 1-12; a decoding module (102 in FIG. 1) for decoding the video source data to obtain video

data (41 in FIG. 3) as discussed on page 9, lines 1-12; a text-extracting module (104 in FIG. 1) for extracting the text part (801 in FIG. 1) from the video data according to a production guide (50 in FIG. 1) as discussed on page 15, lines 1-6; an illustration-extracting module (105 in FIG. 1) for extracting a key frame from the video data according to the production guide, the key frame serving as the illustration part (802 in FIG. 1) as discussed on page 15, lines 1-6; and a book-producing module (107 in FIG. 1) for producing the book according to the extracted text part and illustration part as discussed on page 15, lines 7-20.

Claims 11-20

Independent claim 11 and its dependent claims relate to a book producing method for producing a book, which consists of a text part and an illustration part, comprising: a video-receiving step (201 in FIG. 2) for receiving video source data as discussed on page 8, lines 1-12; a decoding step (202 in FIG. 2) for decoding the video source data to obtain video data as discussed on page 9, lines 1-12; a text-extracting step (203 in FIG. 2) for extracting the text part from the video data according to a production guide as discussed on page 15, lines 1-6; an illustration-extracting step (203 in FIG. 2) for extracting a key frame from the video data according to the production guide, the key frame serving as the illustration part as discussed on page 15, lines 1-6; and a book-producing step (207 in FIG. 2) for producing the book according to the extracted text part and illustration part as discussed on page 15, lines 7-20.

Claims 21-30

Independent claim 21 and its dependent claims relate to a recording medium on which is recorded a program to enable a computer to perform a book producing method, the book producing method comprising: a video-receiving step (201 in FIG. 2) for receiving video source data as discussed on page 8, lines 1-12; a decoding step (202 in FIG. 2) for decoding the video source data to obtain video data as discussed on page 9, lines 1-12; a text-extracting step (203 in FIG. 2) for extracting the text part from the video data according to a production guide as discussed on page 15, lines 1-6; an illustration-extracting step (203 in FIG. 2) for extracting a key frame from the video data according to the production guide, the key frame serving as the illustration part as discussed on page 15, lines 1-6; and a book-producing step (207 in FIG. 2) for producing the book according to the extracted text part and illustration part as discussed on page 15, lines 7-20.

VI. GROUNDS OF REJECTION

Claims 1-4, 6-14, 16-24 and 26-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Myers, U.S. Patent Publication Application No. US 2002/0037104 A1. Claims 5, 15 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Myers in view of Uchihashi, *Video Manga: Generating Semantically Meningful Video Summaries*.

VII. APPELLANT' ARGUMENTS

Claims 1-30

Independent claim 1 recites "an illustration-extracting module for extracting a key frame from the video data according to the production guide, the key frame serving as the illustration part" and "a book-producing module for producing the book according to the extracted text part and illustration part".

Independent claims 11 and 21 recite "an illustration-extracting step for extracting a key frame from the video data according to the production guide, the key frame serving as the illustration part" and "a book-producing step for producing the book according to the extracted text part and illustration part".

Myers discloses an apparatus for recognizing text in an image sequence, including an image capturing sensor 116 and a text recognition and extraction engine 120 (see FIG. 1). As the Examiner correctly indicated, Myers fails to teach "an illustration-extracting module..." as recited in claim 1. In addition, Myers also fails to teach "a book-producing module..." as recited in claim 1.

However, the Examiner asserted that it would have been obvious to one of ordinary skill in the art at the time of the invention to have extracted an image from a video and index the image to produce an indexed photo album of book and using the extracting text, because Myers teaches using the extracted text to index images (see Office Action, page 6, lines 12-15). Appellant respectfully disagrees.

According to MPEP §2143, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the

reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Appellant's disclosure.

First, Myers merely discloses an apparatus and a method for portably recognizing text in an image sequence of scene imagery. Myers fails to teach or suggest anything relating to a book producing system as the present invention claims. Myers only teaches that the text resulting from the text recognition and extraction engine 120 can be provided for image and video indexing and archiving (see paragraph [0031]). In particular, Myers teaches that the image and video indexing and archiving are for storage identification and as a means to increase the accuracy of targeted marketing programs (see paragraph [0078]). Myers discloses that an example is to apply this technique on an internet photo server using the results to increase accuracy that the pop up ads the users seeks is relevant (see paragraph [0078]). There is no suggestion or motivation, either in Myers itself or in the knowledge generally available to one of ordinary skill in the art, to modify the apparatus teaching using the extracted text to index images into a book producing system. Thus, the first criterion is not met.

In addition, Myers fails to teach or suggest all the claim limitations because, as mentioned, Myers fails to teach or suggest "an illustration-extracting module..." and "a book-producing module..." recited in claim 1. As mentioned, the Examiner alleged that these features are obvious to one of ordinary skill in the art because Myers teaches using the extracted text to index images. However, Myers' teaching of indexing image in no way teaches or suggests extracting a key frame from the video data according to the production guide to produce a book as recited in claim 1. It

would be impermissible hindsight based on Appellant's own disclosure to incorporate the teachings of Myers (*i.e.,* using the extracted text to index images) with teachings not found in the utilized prior art (*i.e.,* extracting an image from a video data and producing a book based on the extracted image and text). Therefore, the third criterion is also not met.

In light of the above, Appellant respectfully submits the Examiner failed to establish that Myers is a proper *prima facie* case of obviousness for claim 1, as well as for claims 11 and 21 at least for the same reasons above.

In summary, it is believed that independent claims 1, 11 and 21, as well as the dependent claims are neither suggested nor rendered obvious by the prior art utilized by the Examiner. It is believed that the Appellant has countered all the reasons given for the rejections of the appealed claims, and thus these rejections do not appear to be proper. Accordingly, it is respectfully requested that this Board reverse the final rejection of claims 1-30.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachments: Claims Appendix
Evidence Appendix
Related Proceedings Appendix

VIII. CLAIMS APPENDIX

1. (Original) A book producing system for producing a book, which consists of a text part and an illustration part, comprising:

a video-receiving module for receiving video source data;

a decoding module for decoding the video source data to obtain video data;

a text-extracting module for extracting the text part from the video data according to a production guide;

an illustration-extracting module for extracting a key frame from the video data according to the production guide, the key frame serving as the illustration part; and

a book-producing module for producing the book according to the extracted text part and illustration part.

2. (Original) The book producing system according to claim 1, further comprising: an editing module for receiving a command from a user to edit contents of the book after the book is produced.

3. (Original) The book producing system according to claim 1, further comprising: a book-template-selecting module for receiving a selection from a user to provide at least one book template, the book-producing module producing the book by utilizing the book template.

4. (Original) The book producing system according to claim 1, further comprising: a production-guide-selecting module for receiving a command from a user to select the production guide.

5. (Original) The book producing system according to claim 1, wherein the production guide comprises an audio-analyzing algorithm by which audio data in the video data are analyzed, the text-extracting module extracts the audio data to obtain the text part according to the audio-analyzing algorithm, and the illustration-extracting module extracts image data from the video data corresponding to the audio data as the illustration part.

6. (Original) The book producing system according to claim 1, wherein the production guide comprises a caption-analyzing algorithm by which caption data in the video data are analyzed, the text-extracting module extracts the caption data to obtain the text part according to the caption-analyzing algorithm, and the illustration-extracting module extracts image data from the video data corresponding to the caption data as the illustration part.

7. (Original) The book producing system according to claim 1, wherein the production guide comprises an image-analyzing algorithm by which image data in the video data are analyzed according to an image sample, the illustration-extracting module extracts the image data to obtain the illustration part according to the image-analyzing algorithm, and the text-extracting module extracts the text part from the video data corresponding to the image data.

8. (Original) The book producing system according to claim 1, wherein the production guide comprises an image-analyzing algorithm by which image data in the video data are analyzed according to an object, the illustration-extracting module extracts the image data to obtain the illustration part according to the image-analyzing algorithm, and the text-extracting module extracts the text part from the video data corresponding to the image data.

9. (Original) The book producing system according to claim 1, wherein the production guide comprises an image-analyzing algorithm by which image data in the video data are analyzed, the text-extracting module extracts captions in the image data as the text part, and the illustration-extracting module extracts the image data as the illustration part.

10. (Original) The book producing system according to claim 1, wherein the production guide comprises a scene/shot shift-analyzing algorithm by which scene/shot shifts of image data in the video data are analyzed, the text-extracting module and the illustration-extracting module use the scene/shot shift-analyzing algorithm as a selection and segmentation guide for the text part and the illustration part.

11. (Original) A book producing method for producing a book, which consists of a text part and an illustration part, comprising:

a video-receiving step for receiving video source data;

a decoding step for decoding the video source data to obtain video data;

a text-extracting step for extracting the text part from the video data according to a production guide;

an illustration-extracting step for extracting a key frame from the video data according to the production guide, the key frame serving as the illustration part; and

a book-producing step for producing the book according to the extracted text part and illustration part.

12. (Original) The book producing method according to claim 11, further comprising: an editing step for receiving an operation from a user to edit contents of the book after the book is produced.

13. (Original) The book producing method according to claim 11, further comprising: a book-template-selecting step for receiving a command from a user to select at least one book template, the book-producing step producing the book by utilizing the book template.

14. (Original) The book producing method according to claim 11, further comprising: a production-guide-selecting step for receiving a selection from a user to provide the production guide.

15. (Original) The book producing method according to claim 11, wherein the production guide comprises an audio-analyzing algorithm by which audio data in the video data are

analyzed, the text-extracting step is performed for extracting the audio data to obtain the text part according to the audio-analyzing algorithm, and the illustration-extracting step is performed for extracting image data from the video data corresponding to the audio data as the illustration part.

16. (Original) The book producing method according to claim 11, wherein the production guide comprises a caption-analyzing algorithm by which caption data in the video data are analyzed, the text-extracting step is performed for extracting the caption data to obtain the text part according to the caption-analyzing algorithm, and the illustration-extracting step is performed for extracting image data from the video data corresponding to the caption data as the illustration part.

17. (Original) The book producing method according to claim 11, wherein the production guide comprises an image-analyzing algorithm by which image data in the video data are analyzed according to an image sample, the illustration-extracting step is performed for extracting the image data to obtain the illustration part according to the image-analyzing algorithm, and the text-extracting step is performed for extracting the text part from the video data corresponding to the image data.

18. (Original) The book producing method according to claim 11, wherein the production guide comprises an image-analyzing algorithm by which image data in the video data are analyzed according to an object, the illustration-extracting step is performed for extracting the

image data to obtain the illustration part according to the image-analyzing algorithm, and the text-extracting step is performed for extracting the text part from the video data corresponding to the image data.

19. (Original) The book producing method according to claim 11, wherein the production guide comprises an image-analyzing algorithm by which image data in the video data are analyzed, the text-extracting step is performed for extracting captions in the image data as the text part, and the illustration-extracting step is performed for extracting the image data as the illustration part.

20. (Original) The book producing method according to claim 11, wherein the production guide comprises a scene/shot shift-analyzing algorithm by which scene/shot shifts of image data in the video data are analyzed, the text-extracting step and the illustration-extracting step are performed using the scene/shot shift-analyzing algorithm as a selection and segmentation guide for the text part and the illustration part.

21. (Original) A recording medium on which is recorded a program to enable a computer to perform a book producing method, the book producing method comprising:

a video-receiving step for receiving video source data;

a decoding step for decoding the video source data to obtain video data;

a text-extracting step for extracting the text part from the video data according to a production guide;

an illustration-extracting step for extracting a key frame from the video data according to the production guide, the key frame serving as the illustration part; and

a book-producing step for producing the book according to the extracted text part and illustration part.

22. (Original) The recording medium according to claim 21, wherein the book producing method further comprises: an editing step for receiving an operation from a user to edit contents of the book after the book is produced.

23. (Original) The recording medium according to claim 21, wherein the book producing method further comprises: a book-template-selecting step for receiving a command from a user to select at least one book template, the book-producing step producing the book by utilizing the book template.

24. (Original) The recording medium according to claim 21, wherein the book producing method further comprises: a production-guide-selecting step for receiving a command from a user to select the production guide.

25. (Original) The recording medium according to claim 21, wherein the production guide comprises an audio-analyzing algorithm by which audio data in the video data are analyzed, the text-extracting step is performed for extracting the audio data to obtain the text part according to the audio-analyzing algorithm, and the illustration-extracting step is performed for extracting image data from the video data corresponding to the audio data as the illustration part.

26. (Original) The recording medium according to claim 21, wherein the production guide comprises a caption-analyzing algorithm by which caption data in the video data are analyzed, the text-extracting step is performed for extracting the caption data to obtain the text part according to the caption-analyzing algorithm, and the illustration-extracting step is performed for extracting image data from the video data corresponding to the caption data as the illustration part.

27. (Original) The recording medium according to claim 21, wherein the production guide comprises an image-analyzing algorithm by which image data in the video data are analyzed according to an image sample, the illustration-extracting step is performed for extracting the image data to obtain the illustration part according to the image-analyzing algorithm, and the text-extracting step is performed for extracting the text part from the video data corresponding to the image data.

28. (Original) The recording medium according to claim 21, wherein the production guide comprises an image-analyzing algorithm by which image data in the video data are analyzed according to an object, the illustration-extracting step is performed for extracting the image data to obtain the illustration part according to the image-analyzing algorithm, and the text-extracting step is performed for extracting the text part from the video data corresponding to the image data.

29. (Original) The recording medium according to claim 21, wherein the production guide comprises an image-analyzing algorithm by which image data in the video data are analyzed, the text-extracting step is performed for extracting captions in the image data as the text part, and the illustration-extracting step is performed for extracting the image data as the illustration part.

30. (Original) The recording medium according to claim 21, wherein the production guide comprises a scene/shot shift-analyzing algorithm by which scene/shot shifts of image data in the video data are analyzed, the text-extracting step and the illustration-extracting step are performed using the scene/shot shift-analyzing algorithm as a selection and segmentation guide for the text part and the illustration part.

IX. EVIDENCE APPENDIX

None

X. RELATED PROCEEDINGS APPENDIX

None